



DONALD L. WOLFE, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

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P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE

REFER TO FILE: **AS-0**

September 29, 2005

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**GRAFFITI REMOVAL - CITY TERRACE  
SUPERVISORIAL DISTRICT 1  
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that this graffiti abatement service is categorically exempt from the California Environmental Quality Act (CEQA).
2. Award the Agreement for graffiti removal service in the unincorporated County area of City Terrace in the annual sum of \$23,676 to Southern California Regional Rail Authority (Metrolink). This Agreement will be for a term of one year commencing on November 1, 2005, with two 1-year renewal options that may be exercised by written, mutual consent of the Director of Public Works and Metrolink, not to exceed a total of three years.
3. Authorize the Director to execute this Agreement and to renew it for each additional renewal option if, in the opinion of the Director, renewal is warranted; or to terminate it if, in the opinion of the Director, it is in the best interest of the County to do so.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of this action is to continue the Agreement with Metrolink that enables the County to utilize Metrolink's graffiti removal contractor to provide graffiti removal services for the County adjacent to Metrolink's rights of way in the unincorporated area of City Terrace.

The Graffiti Abatement Program is designed to remove graffiti quickly and as often as necessary to keep the designated areas graffiti-free. The areas subject to this Agreement are adjacent to Metrolink rail lines and are visible from nearby roads. Graffiti removal in the unincorporated County area of City Terrace near Metrolink's rights of way should continue to be performed by Metrolink's graffiti removal contractor and managed by Metrolink. Metrolink can effectively address the unique safety practices and regulations called for when working in track-adjacent areas. Public Works has contracted with Metrolink for this service since 2000.

### **Implementation of Strategic Plan Goals**

This Agreement meets the County Strategic Plan Goal of Children and Families' Well-Being. Prevention and timely removal of graffiti addresses urban blight to enhance the quality and attractiveness of neighborhoods for residents and businesses.

### **FISCAL IMPACT/FINANCING**

This Agreement allows cost-of-living adjustments for the two 1-year optional renewals in accordance with County policy established by the Chief Administrative Office. Agreement renewals will not be executed without the funding authorization of Public Works' Financial Management Branch. Financing for this service is available in Public Works' 2005-06 Road Fund budget. Graffiti removal costs that are eligible will be reimbursed with block grant funds received from the Community Development Commission. There will be no impact on net County cost.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Prior to the Director executing the Agreement, which is substantially reflected in Enclosure A, Metrolink will sign. County Counsel has reviewed this Agreement as to form.

This Agreement is not subject to County Code Chapter 2.121 because it is not a contract with a private business.

The Agreement provides that the County shall indemnify Metrolink for liability arising from the County's own negligence and that Metrolink shall indemnify the County for liability arising from the negligence of Metrolink or its contractor, and that these provisions supersede provisions of the Tort Claims Act (Government Code Sections 895.2 and 895.6), which impose joint and several liability and mutual rights of contribution on public entities who are parties to an Agreement.

Proof of the required Comprehensive General and Automobile Liability insurance policies, naming the County as additional insured, as well as evidence of Workers' Compensation insurance, will be obtained from Metrolink's graffiti removal contractor before any work is assigned.

In accordance with the Chief Administrative Officer's June 15, 2001, instructions, this is Public Works' assurance that Metrolink will not be requested to perform services which will exceed the Agreement's approved amount, scope of work, and/or terms.

#### **ENVIRONMENTAL DOCUMENTATION**

This service is categorically exempt from the CEQA as specified in Class 1 of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, Synopsis 57.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The award of this Agreement will not result in the displacement of any County employees, as this service is presently being provided by the private sector through Metrolink.

The Honorable Board of Supervisors  
September 29, 2005  
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**CONCLUSION**

One adopted copy of this letter is requested.

Respectfully submitted,

DONALD L. WOLFE  
Director of Public Works

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Enc.

cc: Chief Administrative Office  
County Counsel

COOPERATIVE AGREEMENT FOR  
GRAFFITI REMOVAL SERVICES IN THE CITY TERRACE AREA

THIS AGREEMENT, made and entered into by and between the COUNTY OF LOS ANGELES, a political subdivision of the State of California (hereinafter referred to as COUNTY), and the SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (hereinafter referred to as METROLINK).

WITNESSETH

WHEREAS, COUNTY has a graffiti abatement program designed to remove graffiti quickly in certain unincorporated areas of the COUNTY, including the unincorporated area of City Terrace; and

WHEREAS, this AGREEMENT shall be administered on behalf of the COUNTY by the County of Los Angeles Department of Public Works (hereinafter referred to as PUBLIC WORKS); and

WHEREAS, METROLINK has an aggressive graffiti removal program operating in METROLINK'S rights of way near the COUNTY'S unincorporated City Terrace area; and

WHEREAS, to promote an increase in efficiency and cost-effectiveness, METROLINK and the COUNTY desire to incorporate the COUNTY'S graffiti removal program in this area into METROLINK'S graffiti removal program, utilizing METROLINK'S graffiti removal contractor to perform the work; and

WHEREAS, this AGREEMENT and Exhibit A, Service Area Map, attached hereto, and incorporated by reference herein, and are agreed by the COUNTY and METROLINK to constitute an integral part of the AGREEMENT documents.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by METROLINK and COUNTY of the promises herein contained, it is hereby agreed as follows:

(1) DEFINITIONS

The following terms in quotation marks shall have the following specific meaning when used in this AGREEMENT.

- a. "County" includes County of Los Angeles, County of Los Angeles Department of Public Works.
- b. "Director" means the Director of Public Works, County of Los Angeles.
- c. "Metrolink" means the Southern California Regional Rail Authority.

- d. "Public Works" means the County of Los Angeles Department of Public Works.
- e. "Subcontractor" means persons, companies, corporations, or other entities furnishing supplies, services of any nature, equipment, or materials to METROLINK, at any tier under oral or written agreement.

(2) AGREEMENT DURATION

This AGREEMENT will commence on November 1, 2005, for one year with two 1-year renewal options that may be exercised by written, mutual consent of both parties, not to exceed a total of three years.

(3) METROLINK RESPONSIBILITIES

- a. METROLINK, through its graffiti removal contractor, shall remove graffiti on privately owned buildings abutting METROLINK'S right of way in the "Service Area" as designated on Exhibit A to this AGREEMENT. The Service Area is in the COUNTY'S unincorporated City Terrace area between Herbert Street and Eastern Avenue. The method of removal shall consist of covering the graffiti with water base and/or recycled paint. The color of the paint shall match the surface color to which it is applied throughout the Service Area. The graffiti removal shall occur at a frequency of no less than twice every 30 days.
- b. METROLINK shall indemnify, defend, and hold harmless the COUNTY, its elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with METROLINK'S or any of its contractor's or subcontractor's negligent acts and/or omissions arising from and/or relating to METROLINK'S services under this AGREEMENT.
- c. METROLINK shall provide, through METROLINK'S graffiti removal contractor: personnel, supervision, tools, supplies, materials, equipment, transportation, and other incidentals necessary to perform the graffiti removal in the Service Area.
- d. METROLINK shall invoice the COUNTY on a monthly basis in a format satisfactory to COUNTY. Each monthly invoice shall include a monthly report with the following information: dates of graffiti removal; number of square feet of graffiti removed; method of graffiti removal used (painted over or water pressure sprayer); number of crews utilized; number of hours worked; and amount of paint used (in gallons).

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- e. METROLINK shall ensure that COUNTY is named as additionally insured on the comprehensive general liability and automotive liability insurance policies maintained by METROLINK'S graffiti removal contractor and to provide PUBLIC WORKS with endorsements to such policies evidencing that the requirement of this paragraph has been met.
- f. METROLINK, through its graffiti removal contractor, shall obtain and maintain a listing of written permission from property owners for graffiti removal from private properties and provide such information to PUBLIC WORKS.
- g. METROLINK, through its graffiti removal contractor, shall be responsible for the safety of equipment, material, and personnel under METROLINK'S contractor's jurisdiction during the work.
- h. METROLINK, through its graffiti removal contractor, shall be solely responsible for ensuring that all work performed under this AGREEMENT is performed in strict compliance with all applicable Federal, State, and local occupational safety regulations. METROLINK shall ensure that its graffiti removal contractor provides at its graffiti removal contractor's expense all safeguards, safety devices and protective equipment, and shall take any and all actions appropriate to providing a safe jobsite.

(4) COUNTY RESPONSIBILITIES

- a. COUNTY shall pay METROLINK a monthly amount of \$1,973 for the 12-month period starting on November 1, 2005, through October 31, 2006, not to exceed \$23,676, or such greater amount as the COUNTY'S Board of Supervisors may approve.
- b. Should the COUNTY desire to renew this AGREEMENT for any of the option years, the COUNTY, acting through the Director, shall provide a written request to renew this AGREEMENT at least 30 days prior to the end of the immediately preceding term.
- c. COUNTY will provide payment within 30 days of receipt and approval of a properly completed invoice.
- d. COUNTY shall indemnify, defend, and hold harmless METROLINK, its member agencies, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the COUNTY'S negligent acts and/or omissions arising from and/or relating to this AGREEMENT.

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(5) COST-OF-LIVING INCREASES

The monthly rate of compensation set forth above in Paragraph 4.a, County Responsibilities, may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics', All Urban Consumers Price Index for the Los Angeles-Riverside-Orange County Area (CPI). This AGREEMENT'S anniversary date shall be the effective date for any such cost-of-living adjustment. The percentage change in the rate of compensation shall equal 12 times the average monthly change in the CPI over the first nine months of this AGREEMENT'S term preceding the effective date. However, any percentage increase shall not exceed the general salary movement granted to COUNTY employees as determined by the COUNTY'S Chief Administrative Office as of July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the COUNTY'S Board of Supervisors from approving any increase in COUNTY employee salaries, no cost-of-living adjustments will be granted.

(6) METROLINK AND COUNTY MUTUALLY AGREE:

- a. Notices required to be given under these Conditions, or Terms herein, or any law now, or hereafter in effect shall be given by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or any substation thereof, or any public box, and any such notice and the envelope containing the same to METROLINK shall be addressed to:

METROLINK :        Mr. Ron Mathieu, Manager  
                         Southern California Regional Rail Authority  
                         700 South Flower Street, Suite 2600  
                         Los Angeles, CA 90017-4101

The notices and envelopes containing the same to the COUNTY shall be addressed to:

COUNTY:            Mr. Donald L. Wolfe, Director of Public Works  
                         County of Los Angeles  
                         Department of Public Works  
                         P.O. Box 1460  
                         Alhambra, CA 91802-1460

In the event of suspension or termination of this AGREEMENT, notices shall be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to that party. Actual knowledge of such suspension or termination by METROLINK or by the managing agent regularly in charge of the work on behalf of METROLINK shall in any case be sufficient notice.

b. Default and Termination

i. Default

1. Either party may by written notice of default to the other party, terminate the whole or any part of this AGREEMENT as a result of any one of the following circumstances:
  - (a) If a party fails to perform the work within the time specified herein or any extension thereof; or
  - (b) If a party fails to perform any of the other provisions of this AGREEMENT, or so fails to make progress as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten calendar days (or such longer period as either party may authorize in writing) after receipt of notice from said party specifying such failure.
2. If, after Notice of Termination of this AGREEMENT under the provisions of this clause, it is determined for any reason that the defaulted party was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to Paragraph (6) b.ii, Termination for Convenience.
3. The rights and remedies of the parties provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this AGREEMENT.

ii. Termination for Convenience

1. The COUNTY or METROLINK may at any time terminate this AGREEMENT, or any portion thereof, without liability (except as hereinafter provided) by delivering via first class mail or personal delivery to the other party written notice specifying the desired termination date at least 30 days in advance thereof.
2. If this AGREEMENT is terminated by the COUNTY, METROLINK shall, within 30 days of the Notice of Termination, complete those items of work which are in various stages of completion which the Director determines are necessary to bring the work to a timely, logical, and orderly end. COUNTY shall pay for all authorized work performed under this AGREEMENT by METROLINK or its

contractors and subcontractors pursuant to COUNTY'S direction after termination. Reports, samples, and other materials prepared by METROLINK under this AGREEMENT shall be delivered to the COUNTY upon request and shall become the property of the COUNTY.

- c. This AGREEMENT may be amended or modified only by mutual written consent of COUNTY'S Board of Supervisors and METROLINK.
- d. This AGREEMENT was drafted by both parties.
- e. This AGREEMENT shall be construed in accordance with and governed by the laws of the State of California.
- f. This AGREEMENT may be renewed for up to two 1-year terms that may be exercised by written mutual consent of the Director and METROLINK.
- g. The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision.
- h. No waiver of a breach of any provision of this AGREEMENT by either party shall constitute a waiver of any other breach of said provision or any other provision of this AGREEMENT. Failure of either party to enforce at anytime or from time to time, any provision of this AGREEMENT shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- i. This AGREEMENT is by and between the COUNTY and METROLINK and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association between the COUNTY and METROLINK.

In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an AGREEMENT (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by any act or omission occurring in the performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.

METROLINK, through its graffiti removal contractor, shall bear the sole responsibility and liability for furnishing Workers' Compensation and all other benefits required by law to any person for injuries arising from or connected with services performed on behalf of METROLINK or COUNTY pursuant to this AGREEMENT.

- [illegible]

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by METROLINK on \_\_\_\_\_, 2005, and by the COUNTY OF LOS ANGELES on \_\_\_\_\_, 2005.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Director of Public Works

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.  
County Counsel

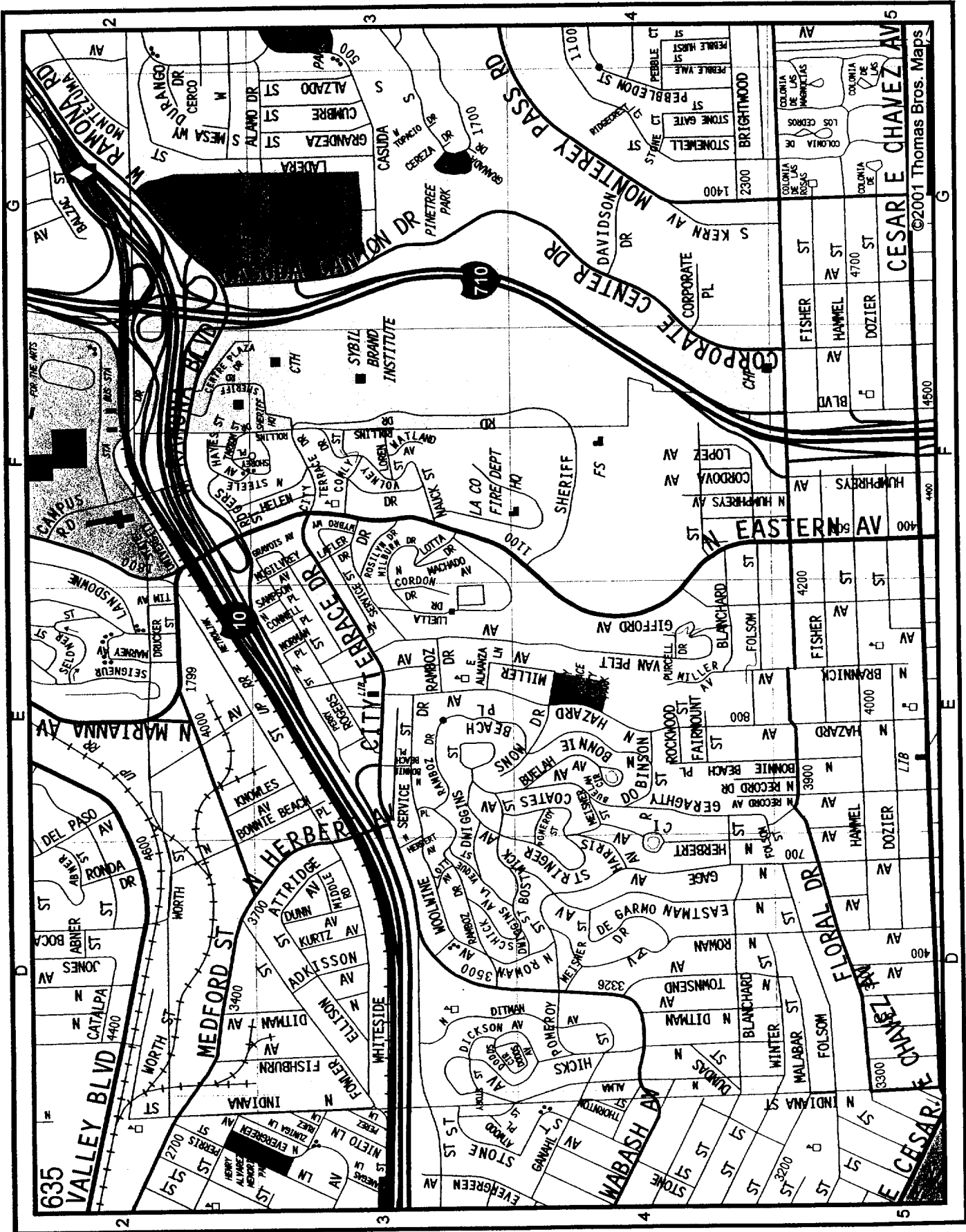
By \_\_\_\_\_  
ADRIENNE BYERS  
Principal Deputy County Counsel

AGREED:

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (METROLINK)

By \_\_\_\_\_  
DAVID SOLOW  
CEO/Executive Director

By \_\_\_\_\_  
ROBERT CARTWRIGHT  
Principal Deputy County Counsel



I-10 Corridor Metrolink & Los Angeles County